MARYLAND HEALTH CARE COMMISSION

COMAR 10.24.08

Summary of Major Changes to the State Health Plan for Facilities and Services: Nursing Home, Home Health Agency and Hospice Services

September 12, 2006

Major Changes to the Nursing Home Section of the State Health Plan

	Current SHP	Proposed SHP
Issues and Policies	**Nursing Home Supply** Policy 1.0:study of impact of nursing home physical plant and design on quality of care	**Nursing Homes in the Continuum of Care** Policy 1.0 slightly revised with mention of replacement facilities where needed. **(NEW)** Policy 1.1: encourage nursing homes to establish transfer agreements and partner with other types of settings to integrate services into the continuum of care.
	Policy 1.1: consultation with MD Dept of Aging and Medicaid about innovative projects	Policy 4.0 Commission to work with applicants to develop innovative projects
	Policy 1.2: establishment of interagency work group to review innovative projects	Eliminated. This has been done by MD Dept. of Aging.
	Access to Care Policy 2.0: project bed need on a jurisdictional basis with adjustment for community-based services.	Now Policy 3.2
	Policy 2.1: Require applicant to meet Medicaid MOU requirements	Slightly revised in New Policy 3.3
	Policy 2.2: Assure that residents of closed nursing homes have access to care.	Eliminated. Sufficiently addressed by regulations of MD Dept of Aging
		Quality of Care **(NEW)** Policy 2.0: work with Medicaid and OHCQ to improve and monitor quality **(NEW)** Policy 2.1:Use Commission Performance Evaluation Guide to assist consumers in selecting nursing home
	Alternatives to Institutional Care Policy 3.0: Encourage applicants to address entire continuum of care	See Policy 1.1 above
	Policy 3.1: Assure that persons are served in the least restrictive setting	Eliminated. Addressed by SHP standards.
	Policy 3.2: Encourage Medicaid to distribute materials on alternatives to nursing homes and to apply for a waiver.	Eliminated. First part addressed by SHP standards. Medicaid already applied for waiver.

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		Consumer Choice **(NEW)** Policy 3.0: work with interested groups to develop data to aid consumers in selecting long term care services. **(NEW)** Policy 3.1: Commission to work with providers to develop standards for exchange of health information across settings. Policy 3.2: See current Policy 2.0 Policy 3.3: See current Policy 2.1
	Workforce Issues Policy 4.0: Commission work with Statewide Commission on Crisis in Nursing and others to assess impact of projections on workforce issues.	Eliminated. Addressed by other state agencies.
		Innovation Policy 4.0: Commission will encourage innovative projects both in nursing homes and between nursing homes and other providers. (See current Policy 1.1)
Certificate of Need Rules	**Certificate of Need Docketing Rules: Nursing Homes**	Eliminated. Rule 2 included in SHP standards
	Certificate of Need Approval Rules: Nursing Homes and Hospital-Based Skilled Nursing Facilities	Eliminated. Some included in SHP standards.
	Changes to Certificate of Need-Approved Nursing Home Projects	Eliminated. Addressed sufficiently in CON regulations COMAR 10.24.01
	Certificate of Need Approval Rules: Chronic Hospitals	Eliminated. Addressed in SHP standards for chronic hospitals and hospital-based skilled nursing facilities
	Certificate of Need Exemption Rules: Nursing Homes	Revised and included in New Section .04A
	Waiver Bed Rules: Nursing Homes	Slightly revised and included in New Section .04B
	Purchase of Nursing Homes	Slightly revised and included in New Section .04C; Relocation separated out in New Section .04D
	Voluntary Closure of Nursing Home	Eliminated. Sufficiently addressed by MD Dept of Aging
	Effective Date	Slightly revised and included in New Section .04E

	Current SHP	Proposed SHP
Standards	**Certificate of Need Standards: Nursing Homes, Hospital-Based Skilled Nursing Facilities, Chronic Hospitals**	Standards separated for nursing homes, chronic hospitals, and hospital-based skilled nursing facilities. **(NEW):** standards reorganized to address types of projects now seen: General Standards that apply to all nursing home projects; New Construction or Expansion of Beds or Services; Renovation of Facility.
Nursing Home Standards	.	**Bed Need** **NEW** standard comparable to previous docketing rule.
	Community-Based Services Nursing homes should provide information to residents on community-based alternatives; initiate discharge planning on admission; provide access for Olmstead efforts	**Community-Based Services** Slightly revised with addition of section for projects involving renovation, replacement, or expansion.
	Nonelderly Residents Nursing homes should provide information about community-based alternatives and opportunities for discharge; staff should be trained in psychosocial problems of nonelderly; should initiate discharge planning on admission	**Nonelderly Residents** Slightly revised and shortened.
	Medicaid Access Applicants must agree to participate in the Medicaid program and sign an MOU to serve a certain proportion of Medicaid residents.	**Medical Assistance Participation** Standard shortened and revised; revised method of calculating the required MOU proportion in response to comments regarding the balance between public access and financial viability of nursing homes.
	Public Water Applicant must assure that facility is served by public water.	**Public Water** Slightly revised

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	Appropriate Living Environment Applicant must provide appropriate living environment, including no more than 2 beds per room; elevator; individual temperature controls.	**Appropriate Living Environment** Revise to require no more than 2 beds per room; individual temperature controls; and no more than 2 residents sharing a toilet. Separate standards to address new construction and renovation projects.
	Transfer and Referral Applicant must demonstrate transfer and referral agreements with agencies capable of managing cases which exceed nursing home capabilities and other providers including: inpatient, outpatient, adult day care, assisted living, home health agencies, psychiatric, aftercare, and others.	**Partnerships** Applicant must demonstrate partnerships with other types of providers to assure that residents have access to entire long term care continuum.
	Public Information and Protection Applicant must have grievance procedure, Resident and Family Council or both	Eliminated. Adequately addressed by OHCQ.
	Disclosure Applicant must disclose if any of its principals have been convicted of felony or fraud.	**Disclosure** Wording revised and clarified
Short-Stay Hospital-Based Skilled Nursing Facility Standards	**Applicable Standards** Commission uses applicable standards from general nursing home standards.	**Applicable Standards** Sec .06B (1): Slightly revised wording.
	Financial Access Applicant must agree to admit Medicaid patients. The Medicaid MOU does not apply	**Financial Access** Sec.06B(2): Slightly revised wording
		Facility Occupancy **(NEW)** Require applicant to meet 85% occupancy—previously an approval rule
		Certification **(NEW)** Require applicant to meet special care licensure requirements

	Current SHP	Proposed SHP
Chronic Hospitals	**Need** Applicant must demonstrate unmet needs	**Need** Similar standard with more specifics on how to demonstrate unmet need
	Financial Access Applicant must accept patients whose payer source is Medicare and Medicaid	**Financial Access** Same standard
	Occupancy Applicant to maintain 85% occupancy	**Occupancy** (**NEW)** Separate standards on Facility Occupancy (85%) and Jurisdictional Occupancy (85%)—previously an approval rule
		Financial Viability **(NEW)** Applicant must demonstrate ability to meet Medicare Conditions of Participation as Long Term Care Hospital
		Expansion **(NEW)** Previously an approval rule.
Nursing Home Bed Need Methodology	**Current Assumptions:** The current methodology makes several assumptions: bed need is projected by jurisdiction; need is projected on an age-adjusted basis (using <65, 65-74,75-84,85+); a three-year average age adjusted use rate is used to project future need; migration adjustments are made; adjustments are made for the development of community-based services.	**Proposed Assumptions:** The proposed methodology uses the same assumptions (with updated utilization data and population data) with two major changes: (1) Utilization data is now obtained from MDS data rather than from the Commission's Long Term Care Survey; (2) The use rate used to project future need is the base year use rate minus 5% rather than the three-year average. The use rate is still age-adjusted using the same age groups.

Major Changes to the Home Health Agency Section of the State Health Plan (COMAR 10.24.08)

	Current SHP	Proposed SHP
Issues and Policies	**Access to HHA Services** Includes discussion on current inventory of HHAs and trend data analyses	**Availability and Accessibility of HHA Services** Moved trend data analyses to new Supplement 2
	Policy 6.0: To monitor the impact of home health agency closures on continued access to HHA services, in coordination with local county health departments	Slightly revised in Policy 5.0: To continue to monitor the availability of, and accessibility to, needed HHA services, in coordination with the Maryland DHMH and its OHCQ
		NEW Issue and Policy 5.1: To extend greater consumer choice in every Maryland jurisdiction where need has been identified, there should be at least three home health agencies
	Policy 6.1: To conduct a study to analyze utilization changes based on the first full year of operation under Medicare's PPS	Revised in Policy 5.2: delete reference to conduct a study, add "continue to monitor;" delete reference to Medicare's PPS
	Policy 6.2: Applicants seeking to establish a specialty HHA	Rephrase in Policy 5.3: An application to establish a specialty HHA
	Nursing Workforce	**Staffing Shortages**
	Policy 7.0: Evaluating the impact of nursing staff shortages on access to HHA services in coordination with the Statewide Commission on the Crisis in Nursing	Update in Policy 6.0: To refer to the Maryland Nursing Workforce Commission
	Quality of Care	**Quality of Care**
	Policy 8.0: Improving oversight for home health agencies, residential service agencies and any other entity providing health care services in the home	Modify in Policy 7.0: To include nurse referral staffing agencies
	Data Collection	**Data Collection**
	Policy 9.0: Collecting Maryland-specific information through the Maryland HHA Annual Report	Modify in Policy 8.0: To emphasize using an upgrade to online submission of the completed survey
Certificate of Need Rules	**Certificate of Need Docketing and Approval Rules for HHAs** Include both docketing and approval rules	**Certificate of Need Docketing Rules** Delete approval rules since redundant with the docketing rules

	Current SHP	Proposed SHP
		NEW Docketing Rule for jurisdictions with fewer than three general home health agencies, the jurisdictional volume threshold of more than 400 clients will not be imposed for existing HHAs in a contiguous jurisdiction, provided that there is net need for the jurisdiction with fewer than three general home health agencies. (Note: this new docketing rule supports new Policy 5.1)
Standards	**Certificate of Need Review Standards: Home Health Agencies** List separate standards to review proposals for general and specialty home health agencies	**Home Health Agency Standards** Reformat and combine list of standards for both general and specialty home health agencies; with supplemental standards for specialty home health agencies
	Service Area Require description of the configuration of the HHA and its interrelationships with main office and any branch	**Service Area** Clarify requirements for description of the parent home health agency and each subunit
	Financial Accessibility An applicant seeking a CON approval as a general or specialty home health agency may present evidence as to why the standard for requiring Medicare and Medicaid certification should not apply	**Financial Accessibility** REVISE standard to allow only specialty home health agencies to present evidence why the rule requiring Medicare and Medicaid certification should not apply
	Information to Providers and the General Public: Includes two Medicaid home and community-based waiver programs	**Information to Providers and the General Public** REVISE to include “at least one appropriately age-focused” Medicaid home and community-based waiver program
	Need for Specialty HHAs Requires applicant to demonstrate quantitatively that there exists an unmet need	**Need for Specialty HHAs** **NEW** language to specify the types of information required to demonstrate need

	Current SHP	Proposed SHP
Methodology for Projecting Need	**Assumptions** Current methodology is premised on two assumptions: percent of hospital discharges referred to HHAs plus the percent of referrals from sources other than hospitals (expressed as a proportion of hospital referrals) Assumptions: Percent of hospital discharges referred to HHAs is10 percent; number of referrals from sources other than hospitals is three-fourths of hospital discharges referred to HHAs	**Methodology Assumptions** REFINE the "other source" assumption by using nursing home data from the LTC Resident Assessment Instrument's Minimum Data Set (MDS) REVISE methodology based on three assumptions: percent of hospital discharges referred to HHAs is seven percent; percent of nursing home discharges with 30 days or less length of stay referred to HHAs is 60 percent; number of referrals referred to HHAs from sources other than hospitals and nursing homes is assumed to be 50 percent of the combined hospital and nursing home referrals
	Data Sources	**Data Sources** **NEW** data source used to obtain the statewide number of nursing home discharges, with a length of sty of 30 days or less, from the LTC Resident Assessment Instrument's Minimum Data Set (MDS)
	Method of Calculation Calculate minimum and maximum number of referrals to home health agencies	**Method of Calculation** Delete calculation of minimum and maximum range; use total statewide referrals

Major Changes to the Hospice Section of the State Health Plan

	Current SHP	Proposed SHP
Issues and Policies		**Volume Threshold** **(NEW)** Policy 9.1: Applies separate volume threshold values for urban and rural counties when determining the need for additional hospice services. (Previously an assumption in the hospice need methodology that consisted of a single volume threshold applied to all counties)
	Availability and Accessibility of Hospice Services Policy 10.0: To monitor, in conjunction with the Hospice Network of Maryland (HNM), the availability and accessibility of hospice programs, particularly in the event of mergers and closures.	Delete language "particularly in the event of mergers and closures".
	Need for Public Education Policy 11: Support efforts of the Hospice Network of Maryland and national hospice organizations regarding professional and public education on hospice care services.	Delete. Sufficiently addressed by hospice organizations.
	Workforce Issues Policy 12: Support efforts of the Hospice Network of Maryland and other providers to evaluate the impact of nursing staff shortages on access to needed hospice services.	Delete. Addressed by other organizations.
	Data Collection Policy 13: In cooperation with the Hospice Network of Maryland continue to support data collection from all hospice providers in order to obtain timely, Maryland-specific data to support planning and regulation of hospice programs.	Delete role of Hospice Network in data collection. Commission is now mandated to collect this data.
		(NEW) Policy 11.1: Directs the Commission to examine how need for hospice services is calculated, and assess whether revisions should be made to the hospice need projection methodology in order to take into account future changes in the health care system, population, and other factors affecting hospice need.

	Current SHP	Proposed SHP
Certificate of Need Docketing Rules		**(NEW) Docketing Rule** for specialty home health agencies approved only to serve the resident subscribers of continuing care retirement communities (CCRCs), allowing such agencies to apply for approval to provide hospice services to these subscribers of the CCRC.
		(NEW) Provision to allow the sole hospice provider in a jurisdiction to request permission from the Commission for a provider in an adjacent jurisdiction to serve a patient in the jurisdiction in the event that staff shortages or other events prevent the provider in the home jurisdiction from caring for that patient.
Certificate of Need Review Standards	**Minimum Services** - Direct Services: lists services that the provider is required to offer directly. - Direct or contractual services: lists services that the provider is required to offer either directly or contractually. - An applicant shall provide bereavement services to the family for a period of at least one year after the death of the patient.	**Minimum Services** - Direct services .13C(1): Add "nutritional counseling" and "on call nursing response" - Direct or contractual services.13.C(2): "laboratory, radiology, chemotherapy services as need for palliative care" - .13.C(3): revise language to replace "after" with "following".
	Volunteers An applicant to establish a new hospice program shall have available trained caregiving volunteers, to meet the needs of patients and families in the hospice program	**Volunteers** Revise to read "an applicant shall have available caregiving volunteers, sufficient to meet…
	Caregivers An applicant shall provide appropriate instruction to, and support for, persons who give primary care to patients in those patients' homes.	**Caregiver**s Revise to read "An applicant shall provide appropriate instructions to, and support for, persons who are primary caretakers for a hospice patient in that patient's residence".
	Charity Care Requires an applicant to provide have and provide documentation of policies for charity care, a time limit for determining if an individual is eligible for charity care, and means for informing prospective clients of these policies and procedures.	**Charity Care** **NEW** language to clarify that an applicant must have a written policy for the provision of charity care and that the policy must contain a minimum of provisions

	Current SHP	Proposed SHP
		Patients' Rights **NEW** standard requiring an applicant to demonstrate its commitment to comply with COMAR 10.27.21.21. with regard to patients' rights.
Methodology for Projecting Need		**Methodology Assumptions** **NEW** assumption that no separate need projection is made for inpatient hospice programs
	Period of Time Covered The target year is five years after the base year.	**Period of Time Covered** Revise the time period covered to six years.
	Age Groups The following age groups are used: under 18, 18-44, 45-54, 55-64, 65-74, 75-84, 85 years and over.	**Age Groups** Revise to project for all age groups combined.
	Assumptions The number of non-cancer patients needing hospice care is 10 percent of the number of cancer patients needing hospice care. The number of clients from each jurisdiction served by existing agencies will remain stable between the base year and target years. The percentage of cancer patients who die while enrolled in a hospice program, referred to as the hospice utilization rate, is between 37.5 and 50 percent.	**Assumptions** **NEW** assumption that the proportion of non-accidental deaths per 65+ population in the target year is the same as the proportion of non-accidental deaths per 65+ population in the base year. **NEW** assumption that the number of live discharges from hospice will increase at the same rate as the number of hospice deaths between the base and target years. Deleted. Deleted Deleted
		Data Sources: Utilization **NEW** data element, non-accidental deaths in the base year is obtained from the the DHMH

	Current SHP	Proposed SHP
	Method of Calculation Calculations for projecting need based on cancer deaths; calculate hospice deaths; calculate jurisdictional hospice use rates; calculate minimum and maximum rates.	**Method of Calculation** ▪ NEW use of the percentage of non-accidental deaths occurring in hospice as the hospice use rate ▪ NEW adjustment of use rates to the State mean if county use rate is below the mean, use rates above the State mean stay the same ▪ Use of a multiplier to calculate projected hospice deaths